

GREENBERG GLUSKER FIELDS CLAMAN
& MACHTINGER LLP
1900 Avenue of the Stars, 21st Floor
Los Angeles, California 90067-4590

BONNIE E. ESKENAZI (SBN 119401)
BEskenazi@ggfirm.com
ELISABETH A. MORIARTY (SBN 156569)
EMoriarty@ggfirm.com
RICARDO P. CESTERO (SBN 203230)
RCestero@ggfirm.com
GREENBERG GLUSKER FIELDS CLAMAN &
MACHTINGER LLP
1900 Avenue of the Stars, 21st Floor
Los Angeles, California 90067-4590
Telephone: 310.553.3610
Fax: 310.553.0687

Attorneys for Plaintiffs and Counterclaim Defendants

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

FOURTH AGE LIMITED, et al.,

Plaintiffs,

v.

WARNER BROS. DIGITAL
DISTRIBUTION, INC., et al.,

Defendants.

WARNER BROS. DIGITAL
DISTRIBUTION, INC., et al.,

Counterclaim Plaintiffs,

v.

FOURTH AGE LIMITED, et al.,

Counterclaim Defendants.

Case No. CV 12-09912 ABC (SHx)

Hon. Audrey B. Collins
Hon. Mag. Stephen J. Hillman

DISCOVERY MATTER

**SUPPLEMENTAL
DECLARATION OF RACHEL
VALADEZ IN SUPPORT OF THE
TOLKIEN/HC PARTIES' REPLY
RE MOTION FOR PROTECTIVE
ORDER RE NOTICE OF
DEPOSITION OF CHRIS SMITH**

[Fed. R. Civ. P. 37(a) and Central
Dist. Local Rule 37-2]

[Reply Memorandum of Points and
Authorities filed concurrently
herewith]

Hearing Date: August 25, 2014

Time: 2:00 p.m.

Place: Ctrm. 550, Roybal Building

Action Filed: November 19, 2012

Discovery Cutoff: July 29, 2014

Trial Date, Pretrial Conf. and Motion

Cutoff Date: Vacated

DECLARATION OF RACHEL VALADEZ

I, Rachel Valadez, declare:

1. I am an attorney duly licensed to practice in all of the courts of the State of California and I am associated with the firm of Greenberg Glusker Fields Claman & Machtinger LLP, attorneys of record for Fourth Age Limited, Priscilla Mary Anne Reuel Tolkien, as Trustee of the Tolkien Trust, the J.R.R. Tolkien Estate Limited, Harper Collins Publishers, Ltd., Unwin Hyman, Ltd. and George Allen & Unwin (Publishers), Ltd. (the "Tolkien/HC Parties") herein. I submit this declaration in support of the Tolkien/HC Parties' Motion for Protective Order Regarding the Deposition of Chris Smith (the "Motion"). The facts set forth herein are of my own personal knowledge and if sworn I could and would testify competently thereto under oath.

2. Defendants and counterclaim plaintiffs Warner Bros. Home Entertainment Inc., Warner Bros. Entertainment Inc., Warner Bros. Consumer Products Inc. and New Line Productions, Inc. (collectively, "Warner") and The Saul Zaentz Company ("Zaentz") (collectively, "Defendants") have already each noticed and deposed the Tolkien Parties pursuant to F.R.C.P. Rule 30(b)(6). Attached hereto as Exhibit "A" is a true and correct copy of Zaentz's Notice of Deposition of the Tolkien Parties pursuant to F.R.C.P. Rule 30(b)(6) served on November 8, 2013. Attached hereto as Exhibit "B" is a true and correct copy of Warner's Notice of Supplemental Deposition Topics for Rule 30(b)(6) of Fourth Age Ltd. served on January 7, 2014. Attached hereto as Exhibit "C" is a true and correct copy of Zaentz's Amended Notice of Deposition of the Tolkien Parties pursuant to F.R.C.P. Rule 30(b)(6) served on January 13, 2014. Attached hereto as Exhibit "D" is a true and correct copy of Warner's Notice of Deposition of Fourth Age pursuant to F.R.C.P. Rule 30(b)(6) served on July 11, 2014, the date on which the deposition of the Tolkien Parties pursuant to F.R.C.P. Rule 30(b)(6) went forward based on the above notices and topics contained therein.

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1 3. The Tolkien Parties designated their outside counsel, Cathleen
2 Blackburn, to testify on their behalf during Defendants' first 30(b)(6) deposition of
3 the Tolkien Parties. Defendants have already deposed Ms. Blackburn on two
4 additional days in her percipient capacity. On all three prior occasions on which
5 Defendants deposed Ms. Blackburn, they frequently covered the same topics,
6 putting the same documents and questions to her repeatedly. Defendants have
7 already deposed Ms. Blackburn and the Tolkien Parties on the very topics outlined
8 in the Second 30(b)(6) Notice.

9 4. Warner has known of the existence of Andrew Boose as a potential
10 witness in this case since at least December 2013 at the very latest, when Ms.
11 Blackburn identified Mr. Boose in her deposition as the primary contact at Davis
12 Wright Tremaine, prior U.S.-based counsel for the Tolkien Parties. Yet, Warner
13 served its subpoena on Mr. Boose just six days prior to the discovery cutoff and
14 demanded that Mr. Boose produce nearly twenty-five years' worth of files on less
15 than a week's notice. Mr. Boose is a New York resident.

16 5. The Tolkien/HC Parties' decision to depose Jeremy Williams resulted
17 from Zaentz taking a position during its 30(b)(6) deposition on July 21, 2014 that
18 directly implicated Mr. Williams and was utterly inconsistent with Zaentz's prior
19 position regarding a 2010 Revocation and Regrant Agreement between the parties.
20 When Warner first received the Tolkien/HC Parties' notice of deposition of Mr.
21 Williams, it agreed to produce him – indicating only that “[b]ecause Jeremy
22 Williams has commitments out-of-the office on July 29, the noticed date, [counsel
23 needed to] check[] on alternative dates.” Attached hereto as Exhibit “E” is a true
24 and correct copy of Warner's counsel, Molly Lens', July 23, 2014 email to me
25 informing the Tolkien/HC Parties that Mr. Williams would need to be deposed on
26 an alternative date than the date noticed. Mr. Williams resides in Los Angeles.

27 6. The Tolkien/HC Parties first indicated their intent to depose Ms.
28 Barrett on March 20, 2014. Attached hereto as Exhibit “F” is a true and correct

1 copy of a March 20, 2014 email in which I informed Defendants' counsel that the
2 Tolkien/HC Parties intended to depose Ms. Barrett. The original date for Ms.
3 Barrett's deposition – June 11, 2014 – was initially agreed upon by all parties as of
4 May 27, 2014. Attached hereto as Exhibit "G" is a true and correct copy of a May
5 27, 2014 email, along with preceding email correspondence, in which Defendants
6 confirmed Ms. Barrett's deposition would go forward on June 11 in Naples,
7 Florida. All parties then agreed to postpone Ms. Barrett's deposition due to the fact
8 that Zaentz's counsel informed the parties that Ms. Barrett and her husband were
9 suffering from serious health-related issues, and would have to reschedule to a later
10 date. All parties have since operated with the understanding that Ms. Barrett's
11 deposition would go forward as soon as her and her husband were well enough,
12 even if that meant she would have to be deposed after the discovery cutoff.

13 7. As to Microgaming, the Tolkien/HC Parties first filed their application
14 for a Letter of Request this Court on June 3, 2014. *See* Docket Entry No. 177. This
15 Court issued a Letter of Request on June 6, 2014. *See* Docket Entry No. 277. That
16 Letter of Request has since been proceeding in the normal course through the
17 Courts in the Isle of Man.

18
19 I declare under penalty of perjury under the laws of the United States of
20 America that the foregoing is true and correct.

21
22 Executed this 11th day of August, 2014 at Los Angeles, California.

23
24 /s/ Rachel Valadez

25 Rachel Valadez
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